

1 SHAYAN HEIDARZADEH (SBN 299915)
2 Shayan.Heidarzadeh@huschblackwell.com
3 HUSCH BLACKWELL LLP
4 1999 Harrison St., Suite 700
5 Oakland, CA 94612
6 Telephone: 510.768.0650
7 Facsimile: 510.768.0651

8 Attorneys for Petitioner
9 EXPRESS SCRIPTS, INC.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HUSCH BLACKWELL LLP
1999 HARRISON ST., SUITE 700, OAKLAND, CA 94612
(510) 510-768-0650

IN RE: DMCA Section 512(h)
Subpoena to Google LLC

MISCELLANEOUS ACTION No.: 3:21-MC-80237

**DECLARATION OF JONAH HOUTS IN SUPPORT
OF PETITIONER EXPRESS SCRIPTS, INC.’S
REQUEST TO THE CLERK FOR ISSUANCE OF
SUBPOENA TO GOOGLE LLC PURSUANT TO 17
U.S.C. § 512(h), TO IDENTIFY ALLEGED
INFRINGEMENTS**

I, **JONAH HOUTS**, declare as follows:

1. I am the Senior Vice President and General Manager, Account Management, National Accounts, at Express Scripts, Inc. (“**ESI**”). As part of my duties, I am responsible for monitoring and addressing infringement of copyrights owned by ESI and its affiliated companies. I have personal knowledge of the facts contained herein and, if called upon to do so, I could and would testify competently thereto.

2. I am authorized to act on ESI’s behalf. I submit this declaration in support of ESI’s request for issuance of a subpoena to Google LLC (“**Google**”), pursuant to the Digital Millennium Copyright Act (“**DMCA**”), 17 U.S.C. § 512(h). The purpose of ESI’s proposed subpoena (“**DMCA Subpoena**”) is to identify the alleged infringer or infringers who posted images of an agreement between ESI and Aon Consulting, Inc. (“**Aon**”) on systems operated by Google without authorization from ESI or Aon. These postings infringe copyrights held by ESI and Aon.

1 3. On September 20, 2021, I authorized the submission on behalf of ESI of a DMCA
2 notification via Google’s online DMCA notification form (which can be accessed at
3 <https://support.google.com/legal/troubleshooter/1114905?hl=en>), identifying the infringing content
4 and providing the information required by 17 U.S.C. § 512(c)(3)(A). Attached hereto as Exhibit 1
5 is a true and correct copy of the information I submitted through Google’s online form, along with
6 screenshots of Google’s removal dashboard listing Google’s response to the DMCA notification.

7 4. The purpose for which ESI's DMCA Subpoena is sought is to obtain the identity of
8 an alleged infringer or infringers, and such information will be used only for the purpose of
9 protecting ESI's rights under 17 U.S.C. §§ 100 *et seq.*

10 I declare under penalty of perjury under the laws of the State of California and the United
11 States of America that the foregoing is true and correct.

Executed on September 21, 2021, at St. Louis, Missouri.

JONAH HOUTS

EXHIBIT 1

N

Copyright Removal

[Help](#)

Report alleged copyright infringement: Google Docs, Google Drive and Fusion Tables

It is our policy to respond to notices of alleged infringement that comply with the Digital Millennium Copyright Act (the text of which can be found at the U.S. Copyright Office Web Site, <http://www.copyright.gov>) and other applicable intellectual property laws. Our response may include removing or disabling access to material claimed to be the subject of infringing activity and/or terminating subscribers. If we remove or disable access in response to such a notice, we may notify the owner or administrator of the affected site or content so that he or she can make a counter notification. It is also our policy to document all notices of alleged infringement on which we act, including by sending a copy of the notice to one or more third parties or making it available to the public. You can see an example of such a publication at <http://lumendatabase.org/notices/861>.

Infringement Notification

To file a notice of infringement with us, you may use the form provided below.

IMPORTANT: Misrepresentations made in your notice regarding whether material or activity is infringing may expose you to liability for damages (including costs and attorneys' fees). [Courts have found](#) that you must consider copyright defenses, limitations or exceptions before sending a notice. In [one case](#) involving online content, a company paid more than \$100,000 in costs and attorneys fees after targeting content protected by the U.S. fair use doctrine. Accordingly, if you are not sure whether material available online infringes your copyright, we suggest that you first contact an attorney.

** Required field*

Contact Information

First name: *

Nolan

Last name: *

Schochet

Company Name:

Quinn Emanuel Urquhart & S

Copyright holder you represent: *

Express Scripts, Inc.

[Add represented copyright holder](#)

Email address: *

nolanschochet@quinnemanu

Country/Region: *

United States

YOUR COPYRIGHTED WORK

In order to permit us to verify that your work actually appears at the URLs targeted by your notice, please provide us with information that identifies in sufficient detail the copyrighted work that you believe has been infringed upon.

Is the submission related to an unauthorized stream of an upcoming live-event? *

No

Identify and describe the copyrighted work: *

(For example, "The photographs of the black widow spider with red spots and that of the black labrador retriever which can be viewed at the URL below" or "My published book, "Touch Not This Cat", is infringed by the text excerpted on the site, beginning with the text 'I came home to

find my cat sitting on the kitchen counter.””

If this notice concerns multiple infringed works, please submit only the first one in this box. Then, click the 'Add a new group' link below the text boxes to add another infringed work.

The Master Agreement, effective as of January 1, 2017, between Express Scripts, Inc., and Aon Consulting, Inc.

The copyrighted work is not available online (except in the infringing images we seek to be removed).

Where can we see an authorized example of the work?:

(Please provide URL(s) where an example of the copyrighted work can be viewed. This will be used by our team to verify that the work appears on the pages you are asking us to remove.)

"The copyrighted work is not available online (except in the infringing images we seek to be removed)." at line 1 invalid: URL must start with a scheme

Please enter one URL per line (Max 1000 lines)

Location of infringing material: *

Please provide the URL(s) of the allegedly infringing material that you are asking us to remove.

If this notice concerns more than one copyrighted work, please input the URLs for the first work below. Then, click the 'Add a new group' link below to input infringing URLs related to another infringed work.

For each doc or drive you wish to have removed from our service, provide the Docs/Drive URL. Please note that we cannot process Drive folder URLs.

Acceptable URL formats:

Docs URLs:

<https://docs.google.com/document/d/a1b2c3d4e5/edit>
<https://docs.google.com/file/d/a1b2c3d4e5/preview>

Drive URLs:

<https://drive.google.com/file/d/a1b2c3d4e5/>
<https://drive.google.com/open?id=a1b2c3d4e5>
<https://redirector.googlevideo.com/videoplayback?id=a1b2c3d4e5f6g7h8&source=webdrive&driveid=0Ab1Cd2Ef3Gh4lj5Kl6Mn7Op8Qr9>
<https://r1---sn-25g7sn76.googlevideo.com/videoplayback?id=a1b2c3d4e5f6g7h8&source=webdrive&driveid=0Ab1Cd2Ef3Gh4lj5Kl6Mn7Op8Qr9>
<https://r3---sn-a5mlrn7z.c.docs.google.com/videoplayback?id=a1b2c3d4e5f6g7h8&source=webdrive&driveid=0Ab1Cd2Ef3Gh4lj5Kl6Mn7Op8Qr9>

Fusion table URLs:

<https://www.google.com/fusiontables/DataSource?docid=a1b2c3e4d5>
<https://www.google.com/fusiontables/data?docid=a1b2c3e4d5>

Unacceptable URL formats:

Drive folder URL:

<https://drive.google.com/drive/folders/a1b2c3d4e5w>

Picasa URL:

<https://r14---sn-u2x76n7k.googlevideo.com/videoplayback?requiressl=yes&shardbypass=yes&cmbypass=yes&id=a1b2e3d4e5&itag=37&source=picasa>

<https://drive.google.com/file/d/1jottt5L4LXrndeNX2oFr53JWgZUvi-AS/view>
<https://drive.google.com/file/d/1ltKjxaGYhCTBDcnmaOr9urw8RGwIBmwU/view>
<https://drive.google.com/file/d/17GBBvAPG93znUPErKoWh5GA8PVzKDI6W/view>
<https://drive.google.com/file/d/1C0dk1RpyEGt5RCSBMvFk4E2E8f6rvqrc/view>
<https://drive.google.com/file/d/1mNOAngHmLhe7tOYxk5eEdHYmDAtzE5Av/view>
<https://drive.google.com/file/d/1XVsXbw84Kn6IGyHxqRcDUHbjIA-Ujd8Q/view>
https://drive.google.com/file/d/1Wgm9YXyN_bX4v3scuMPyx3zwVRqhba51/view
<https://drive.google.com/file/d/1FwlSaPDVMZxrTLKHGBxsCjMLiYyCM3gX/view>
https://drive.google.com/file/d/1_f_9jWQohOv-pGLW9IGwMPpwCIGr3qNB/view
<https://drive.google.com/file/d/1wgcGEPakuZr890xvxMeMliDKWUqMy7rx/view>
https://drive.google.com/file/d/1oBgu_vRVmYYmO94XEdvQP9lqmrEDIRwU/view
<https://drive.google.com/file/d/1pBDpfNvfzmWkMRAXIRoefHQ8E9OEKI8x/view>

Please enter one URL per line (Max 1000 lines)

[Add a new group](#) (Max 10 groups)

SWORN STATEMENTS

I have a good faith belief that use of the copyrighted materials described above as allegedly infringing is not authorized by the copyright owner, its agent, or the law.

Please check to confirm

The information in this notification is accurate and I swear, under penalty of perjury, that I am the copyright owner or am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Please check to confirm

I understand that a copy of each legal notice may be sent to the Lumen project (<http://lumendatabase.org>) for publication and annotation. I also understand that Lumen redacts personal contact information from notices before publication, but in many cases, will not redact my name.

Please check to confirm

SIGNATURE

Signed on this date of: *

09/20/2021

MM/DD/YYYY (e.g. "12/19/2010")

Signature: *

Nolan Schoichet

e.g. John A. Smith

By typing your full name above, you are providing us with your digital signature, which is as legally binding as your physical signature. Please note that your signature must exactly match the first and last names that you entered at the top of this web form in order for your submission to be successful.



I'm not a robot

reCAPTCHA
[Privacy](#) - [Terms](#)

Please note that we may ask for additional information if your notice isn't properly filled out or if the complaint is incomplete. If multiple Google products are affected, please submit a notice for each affected product by following the instructions [here](#).

Account Disabling

Many Google Services do not have account holders or subscribers. For Services that do, Google will, in appropriate circumstances, disable the accounts of repeat infringers.

[Submit](#)

N

Copyright Removal

Help ▾

Removal Dashboard - Google Docs, Google Drive and Fusion Tables

[Create a new notice](#) [Look up URL](#)[Download last 30 days](#)

View

[Last 30 days](#)[All](#)

Show

25 rows ▾

1-1 of 1



Your removal submissions

Date	Confirmation ID	Total URLs	Approved URLs	Rejected URLs	Pending URLs	Not In Index URLs
Sep 20, 2021 6:39:59 PM (PDT)	6-8566000031934	12	0	0	12	0

1-1 of 1



N

Copyright Removal

Help ▾

Date requested: Sep 20, 2021 6:41:02 PM (PDT)

Download URL review details

Confirmation ID	Total URLs	Approved URLs	Rejected URLs	Pending URLs	Not In Index URLs
6-8566000031934	12	0	0	12	0

Show

25 rows ▾

1-12 of 12

**Pending URLs**

URL

<https://drive.google.com/file/d/17GBBvAPG93znUPErKoWh5GA8PVzKDI6W/view> ↗<https://drive.google.com/file/d/1C0dk1RpyEGt5RCSBMvFk4E2E8f6rvqrc/view> ↗<https://drive.google.com/file/d/1FwISaPDVMZxrTLKHGBxsCjMLiYyCM3gX/view> ↗https://drive.google.com/file/d/1Wgm9YXyN_bX4v3scuMPyx3zwVRqhba51/view ↗<https://drive.google.com/file/d/1XVsXbw84Kn6IGyHxqRcDUHbjIA-Ujd8Q/view> ↗https://drive.google.com/file/d/1_f_9jWQohOv-pGLW9lGwMPpwCIGr3qNB/view ↗<https://drive.google.com/file/d/1jottt5L4LXrndeNX2oFr53JWgZUvi-AS/view> ↗<https://drive.google.com/file/d/1ltKjxaGYhCTBDcnmaOr9urw8RGwlBmwU/view> ↗<https://drive.google.com/file/d/1mNOAngHmLhe7tOYxk5eEdHYmDAtzE5Av/view> ↗https://drive.google.com/file/d/1oBgu_vRVmYYm094XEdvQP9lqmrEDIRwU/view ↗<https://drive.google.com/file/d/1pBDpfNvfzmWkMRAXIRoefHQ8E9OEKI8x/view> ↗<https://drive.google.com/file/d/1wgcGEPakuZr890xvxMeMliDKWUqMy7rx/view> ↗

1-12 of 12



